

CERTIFIED MAIL

DEC 11 1984

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

The information you submitted shows that you are formed as a non-profit association. Your stated purpose is to act on behalf of your members as their governing body with respect to the administration, maintenance, repair and replacement of certain property which has been submitted to the [REDACTED].

Your activities are limited to the monthly collection and deposit of fees from condominium owners and payment of common expenses, which include painting of outside surfaces of the building, replacement of gravel in driveways when needed, payment of insurance for coverage of common elements of the building and outside grounds, and lawn cutting service during the summer.

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual. A shareholder refers to anyone having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It reads, in part, as follows:

In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		[REDACTED]	[REDACTED]				
Surname							
Date		12/11/84	12-11-84				

Section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. The term "exempt purpose or purposes" as used in this Section, means any purpose or purposes specified in Section 501(c)(3).

An organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purpose of such organization to one or more exempt purposes.

An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of any private shareholders or individuals.

Section 1.501(c)(3)-1 of the Income Tax Regulations sets forth the organizational and operations tests in respect to distribution of assets on dissolution and during operation, and reads, in part, as follows:

An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if upon dissolution, such assets would, be reason of a provision in the organization's articles, or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated for any purpose under Section 501(c)(3) unless it serves a public rather than a private interest.

Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organizations, or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve a private interest.

[REDACTED]

Your sole activity as set forth in your application and as cited in this letter is the collection of funds from your members and payment for the general maintenance and common expenses of your building and area. Thus your activities are for the private benefit of your members, the residents of [REDACTED], and do not serve a broad public purpose as required by Section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Neither are your activities in furtherance of charitable, educational or other purposes specified in Section 501(c)(3).

Your assets upon dissolution are not dedicated to 501(c)(3) purposes. Your purposes as set forth in your organizational document are not within the purview of Section 501(c)(3). You therefore do not meet the organizational test requirements of Section 1.501(c)(3)-1 of the Income Tax Regulations.

The information you have submitted and as cited in this letter established that you are not organized or operated for Section 501(c)(3) purposes. Accordingly, we conclude that you are not entitled to recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of Internal Revenue Code Section 501(c).

You are required to file Federal income tax returns. Contributions to you are not deductible under Section 170 of the Code.

Your attention is called to Section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determined that you qualify under Section 528, you must file Form 1120H. If you determine that you do not qualify under Section 528, you must file corporate tax return Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

A copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this Section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely,

[REDACTED]
District Director

Enclosure: Publication 892